

JOSEPH P. RUSSONIELLO (CSBN 44332)  
United States Attorney

BRIAN STRETCH (CSBN 163973)  
Chief, Criminal Division

DENISE MARIE BARTON (MABN 634052)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7359  
Facsimile: (415) 436-7234  
denise.barton@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	CR No. CR 03-08-70096 MEJ
	)	
Plaintiff,	)	STIPULATION AND [PROPOSED] ORDER
	)	CONTINUING THE PRELIMINARY
v.	)	HEARING AND EXCLUDING TIME
	)	
TIMOTHY CRAIG,	)	
	)	
Defendant.	)	
_____	)	

This matter is set for a Preliminary Hearing / Arraignment on May 9, 2008. The United States intended to present this matter for indictment before the Grand Jury on May 6, 2008. On the morning of May 6, 2008, counsel for the United States learned that the intended law enforcement witness for the case suffered a medical emergency, would not be able to appear before the Grand Jury, and that he would be unavailable due to his medical situation for approximately three weeks. Counsel for the United States has conferred with the investigating law enforcement agency and confirmed that another witness, who was out of the District from May 5-9, 2008, can be prepared and available to testify before the Grand Jury on the week of May 12, 2008. Due to other court obligations, this witness is not available at the sitting of the Grand Jury on Tuesday, May 13, 2008 but is available to testify on Thursday, May 15, 2008.

With the testimony of this witness, the United States now intends to present this matter before the Grand Jury on Thursday, May 15, 2008. The defendant does not object to this continuance, believes that good cause exists to extend the time limits of Fed. R. Crim. P. 5.1(c),(d) due to the unavailability of an essential witness, and waives his right to have a preliminary hearing held within 20 days pursuant to Fed. R. Crim. P. 5.1(c),(d). The parties now stipulate and request that the Court enter an Order that the Preliminary Hearing be removed from the May 9, 2008 calendar and be continued until May 16, 2008 and that time should be excluded from the Speedy Trial Act calculations from May 9, 2008 through May 16, 2008. The parties represent that granting this continuance is necessary due to the unavailability of an essential witness. See 18 U.S.C. § 3161(h)(3)(A).

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO  
United States Attorney

DATED: May 8, 2008

/s/  
DENISE MARIE BARTON  
Assistant United States Attorney

DATED: May 8, 2008

/s/  
STEVEN KALAR  
Attorney for TIMOTHY CRAIG

### **[PROPOSED] ORDER**

For the reasons stated above, the Preliminary Hearing shall be removed from the May 9, 2008 calendar and be continued until May 16, 2008. The Court finds that a showing of good cause has been made to extend the time for a preliminary hearing pursuant to Fed. R. Crim. P. 5.1(c),(d) and that time should be excluded from the Speedy Trial Act due to the unavailability of an essential witness. See 18 U.S.C. § 3161(h)(3)(A).

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Honorable Edward M. Chen  
United States Magistrate Judge